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DEC 1 1 2008 67,108-017 Bogdan 2-1-1-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:

Bogdan, Brian J.

Serial Number:

10/648,909

Filed:

08/27/2003

Group Art Unit:

2193

Examiner:

Wood, William H.

Title:

FIRMWARE MANAGEMENT TOOL

RESPONSE TO NOTICE OF ABANDONMENT REQUESTING WITHDRAWAL OF THE ABANDONMENT

Mail Stop AF Commissioner for Patents P. O. Box 1450 Alexandria, VA 22313-1450

Dear Sir:

In response to the Notice of Abandonment dated November 19, 2008 for failure to timely pay the issue fee in response to the Notice of Allowance dated July 23, 2008, Applicant respectfully requests the abandonment to be withdrawn.

Applicant respectfully requests the Notice of Abandonment be withdrawn without cost to Applicant because Applicant never received the Notice of Allowance from the United States Patent and Trademark Office. Attached as Appendix A is a Declaration signed by Tracey Belanger, the Docketing Administrator from Carlson, Gaskey & Olds, stating that the Notice of Allowance was never received by Carlson, Gaskey & Olds. Ms. Belanger is responsible for handling all mail received from the United States Patent and Trademark Office and for docketing any corresponding due dates.

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A Non-Final Office Action was mailed to Applicant on December 21, 2007, and Applicant filed a Response to this action on March 20, 2008. As discussed above, Applicant did not receive any further correspondence from the United States Patent and Trademark Office for this application. Thus, Applicant requests that the abandonment be withdrawn.

I questioned Tracey Belanger to determine whether or not we had received the Notice of Allowance. She informed me that she had not received any correspondence from the United States Patent & Trademark Office for a Notice of Allowance in the subject application and that our docketing system did not have any Issue Fee due date for the subject application.

I personally searched the file jacket and my own docketing records. I did not find a copy of the Notice of Allowance dated July 23, 2008 in the file jacket. I also did not find any entry on my docket indicating that the issue fee was due for the above-referenced application.

On November 24, 2008, I obtained a copy of the Notice of Allowance dated July 23, 2008 on-line from PAIR.

Enclosed as **Appendix B** is a record of all docketing actions for our attorney docket number 67,108-017, which is our file for this application, printed on December 11, 2008. The last action received from the United States Patent and Trademark Office is the non-final office action mailed on December 21, 2007.

I, the undersigned attorney for Applicants, am the responsible, docketed attorney for this application. A Docket Report showing due dates for my matters pending at Carlson, Gaskey & Olds from July 1, 2008 to October 31, 2008 is also attached as **Appendix C**. As indicated in **Appendix C**, there is no issue fee due date for our file number 67,108-017 (i.e., this application) on October 23, 2008.

DEC 1 1 2008

67,108-017 Bogdan 2-1-1-1

It is believed that the above statements and evidence attached in Appendices A-C meet all of the requirements to establish non-receipt of an office communication.

If, however, the abandonment is held proper, Applicant hereby petitions for revival of this unintentionally abandoned application. The petition fee for reviving the unintentionally abandoned application may be charged to deposit account no. 50-1482 in the name of Carlson, Gaskey & Olds. The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

Payment of the issue fee is being made by the submission that is filed concurrently with this paper. It is believed the above constitutes a complete response to the Notice of Allowance and that the conditional petition should be granted if needed to have this case revived.

Respectfully submitted,

CARLSON, GASKEY & OLDS

David J. Gaskey

Registration No. 37,139

400 W. Maple Rd., Ste. 350

Birmingham, MI 48009

(248) 988-8360

Dated: December ______, 2008

CERTIFICATE OF FACSIMILE

I hereby certify that this Response, relative to Application Serial No. 10/648,909 is being facsimile transmitted to the Patent and Trademark Office (Fax No. (571) 273-8300) on December \\ \dagger \, 2008.

Theresa M. Palmateer

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10/648,909

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2193

Examiner:

Wood, William H.

Title:

FIRMWARE MANAGEMENT TOOL

DECLARATION

Mail Stop AF Commissioner for Patents P. O. Box 1450 Alexandria, VA 22313-1450

Dear Sir:

I, Tracey Belanger, am the Docketing Administrator for Carlson, Gaskey & Olds. My responsibilities include opening and docketing all mail received by Carlson, Gaskey & Olds from the United States Patent and Trademark Office.

I have reviewed the Carlson, Gaskey & Olds docket and have found no entries for a Notice of Allowance for the above-referenced application. Thus, I believe that Carlson, Gaskey & Olds did not receive the Notice of Allowance for the above-referenced application.

Dated: December 1 . 2008

Tracey Belanger

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APPENDIX B

David J. Gaskey 7/2/2008 Info Discl. Statement
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David J. Gaskey 10/18/2008 Notice of missing parts - : 67108-328 PUS US
David J. Gaskey 10/22/2008 22 Mo. Demand Deadline 67108-294 PCT PCT
David J. Gaskey 10/23/2008 One Year Status Check 60469-225 PUS US
David J. Gaskey 10/24/2008 Notice of Appeal due 67108-359 PUS US
David J. Gaskey 10/29/2008 Response to Provoke Adv 67108-188 US
David J. Gaskey 10/29/2008 One Year Status Check 67183-009 PUS US
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APPENDIX C